

VRJ

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

BAIL APPLICATION NO.5072 OF 2024

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Riyasat Mohammed Ilyas Qureshi	... Applicant
V/s.	
The State of Maharashtra & Anr.	... Respondents

Mr. Afin Pathan with Rafiq Gori i/by Mr. Sharin Pathan
for the applicant.

Mr. Prasanna P. Malshe, APP for the State.

Mr. Lahu Rathod, PSI, Rabodi Police Station, is present.

CORAM : AMIT BORKAR, J.

DATED : JULY 3, 2025

P.C.:

1. This is an application filed under Section 439 of the Code of Criminal Procedure, 1973, wherein the applicant is seeking his release on bail in connection with Crime No.714 of 2024, registered at Rabodi Police Station. The applicant is facing charges for offences punishable under Sections 376 and 376(2)(n) of the Indian Penal Code, 1860, which relate to rape and repeated sexual assault on the same woman.

2. As per the case of the prosecution, the victim, a 24-year-old woman, was in a close relationship with the applicant. This relationship gradually turned into an emotional and physical one. It is alleged that the applicant established sexual relations with the

victim under the pretext of marrying her. It is further stated that whenever the victim became pregnant due to their physical intimacy, the applicant persuaded her to undergo abortion, giving her repeated assurances that he would marry her soon after. The last such abortion is stated to have been carried out when the victim was four months pregnant. Based on these allegations, the present FIR bearing Crime No.714 of 2024 came to be registered with the concerned police station.

3. Learned Advocate for the applicant has submitted that the material on record clearly reflects that the applicant and the victim were formally engaged in the year 2022. However, due to certain personal issues, including the circulation of a video allegedly involving the victim and a third person, the engagement was subsequently called off. He further submitted that the relationship between the applicant and the victim was consensual in nature and that even an abortion had taken place in 2022 as part of their relationship. He emphasized that the alleged incident is stated to have occurred on 1st January 2022, but the FIR came to be lodged much later, on 26th July 2024, which reflects an inordinate and unexplained delay. Therefore, according to him, the applicant deserves to be released on bail, especially since he has roots in society and is not likely to flee from justice.

4. On the other hand, the learned Additional Public Prosecutor opposed the bail application and submitted that the allegations against the applicant are grave and serious in nature. He pointed out that the victim's version is consistent and has been supported by the medical report on record. He contended that the conduct of

the applicant, if accepted as true, shows a pattern of taking advantage of the victim by promising marriage and repeatedly exploiting her physically. In such circumstances, it was argued that the applicant does not deserve the discretionary relief of bail.

5. I have carefully considered the rival submissions and perused the material placed on record. It is not in dispute that the applicant and the victim were known to each other and had an intimate relationship. The engagement between them in the year 2022 is admitted. From the statements and the record, it appears that the physical relationship was developed in the backdrop of such intimacy, and that the victim herself has referred to multiple instances of consensual acts followed by pregnancy and abortion.

6. It is important to note that the incident as alleged by the complainant is stated to have occurred on 1st January 2022, whereas the FIR came to be lodged on 26th July 2024. The delay of more than two years and six months in lodging the complaint has not been satisfactorily explained. Though it is true that in cases involving sexual offences, delay alone cannot be the sole ground for granting bail, in the present case, the conduct of the parties and the nature of their relationship over a prolonged period, coupled with the admitted engagement, brings the matter within the realm of a relationship gone sour.

7. The charge of repeated rape under Section 376(2)(n) IPC presupposes absence of consent. However, in the present matter, the material on record suggests a long-standing relationship where the parties voluntarily engaged in physical intimacy. Though the

complainant has stated that she was induced by a promise of marriage, it appears that the promise was made in the context of a mutual relationship, and not merely to exploit her. The aspect of false promise of marriage, especially where the relationship has continued for long and the parties were engaged, is a matter that would require detailed evidence and trial. At this stage, a clear case of sexual exploitation for lust, as contemplated under Section 376 IPC, is not made out on the face of record.

8. The applicant is stated to be a permanent resident of the local area and has no criminal antecedents. There is no allegation that he may abscond or tamper with the evidence. The charge-sheet has not yet been filed, and the applicant has already undergone sufficient custody for the purposes of custodial interrogation.

9. In view of the above circumstances, and considering the overall facts and conduct of the parties, this Court is of the opinion that this is a fit case to exercise discretion under Section 439 of the CrPC and grant bail to the applicant, subject to certain stringent conditions to ensure his presence during the course of investigation and trial.

10. Hence, the following order is passed:

11. The applicant Riyasat Mohammed Ilyas Qureshi is directed to be released on bail in connection with Crime No.714 of 2024, registered at Rabodi Police Station, for offences punishable under Sections 376 and 376(2)(n) of the Indian Penal Code, 1860, on executing a personal bond of Rs.25,000/- (Rupees Twenty Five

Thousand only) with one or more sureties in the like amount, subject to the following conditions:

- a) The applicant shall not, in any manner, contact the victim or her family members, directly or indirectly.
 - b) The applicant shall not tamper with the evidence or attempt to influence any witness.
 - c) The applicant shall appear before the Trial Court on every date of hearing unless prevented by sufficient cause.
 - d) The applicant shall not leave the territorial jurisdiction of the Trial Court without prior permission.
 - e) The applicant shall not indulge in any criminal activity during the pendency of the trial.
- 12.** The bail application is disposed of in the aforesaid terms.

(AMIT BORKAR, J.)